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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.    | CONFIRMATION NO. |
|--|-------------|----------------------|------------------------|------------------|
| 10/766,520   | 01/27/2004  | Alessandro Spaggiari | 26218                  | 2209             |
| 20529  | 7590        | 10/25/2005           | EXAMINER               |                  |
| NATH & ASSOCIATES<br>1030 15th STREET, NW<br>6TH FLOOR<br>WASHINGTON, DC 20005 |             |                      | VERDIER, CHRISTOPHER M |                  |
|  |             |                      | ART UNIT               | PAPER NUMBER     |
|  |             |                      | 3745                   |                  |

DATE MAILED: 10/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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|                              |                                 |                       |  |
|------------------------------|---------------------------------|-----------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b>          | <b>Applicant(s)</b>   |  |
|                              | 10/766,520                      | SPAGGIARI, ALESSANDRO |  |
|                              | Examiner<br>Christopher Verdier | Art Unit<br>3745      |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 8-4-05.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 1-27-04, 8-4-05 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

Applicant's Amendment dated August 4, 2005 has been carefully considered but is non-persuasive. Claims 1-4 are pending. The Replacement Sheet of Drawings for figure 2 is acceptable. The abstract has been amended to overcome the informality set forth in the first Office action. Correction of the above matters is noted with appreciation.

Applicant has argued that amended claim 1 defines over Boeckel 3,303,995, in that Boeckel fails to disclose a plurality of through windows formed only radially in the central body and spaced in a gap between two adjacent blades, and that Boeckel presents a different position of the window openings 26 in that they are placed on the faces of the end wall 13 perpendicular to the rotor shaft 22. Applicant also states that different openings 28 by vanes are provided on the end wall which cooperate with openings 40, 42, and 51 in figure 2 formed in a disc 50 of the motor support. These arguments are not persuasive. The amended limitation in claim 1, lines 5-6 of the windows being formed only radially in the central body contains new matter as set forth later below, and also is inaccurate, as set forth later below. To the extent that claim 1 is accurate, Boeckel discloses a plurality of through windows 26 formed only radially in the central body 13 and spaced in a gap between two adjacent blades 16. Applicant's argument that the window openings 26 of Boeckel are placed on the faces of the end wall 13 perpendicular to the rotor shaft 22 is not persuasive because amended claim 1 still reads on the limitation of "a number of through windows are formed only radially in said central body in a gap between two adjacent blades". Claim 1 does not exclude the openings 40, 42, and 51 in figure 2 of Boeckel, because these openings are formed in other components of the ventilation unit such as the motor case 34 and the motor support structure 46. Concerning Applicant's argument that different openings 28

by vanes are provided on the end wall of Boeckel, this argument is not persuasive, because vanes 28 do not form windows 26, but are merely attached to a rear face of the base wall 13.

Applicant's arguments that Boeckel does not teach or suggest channeling condensate out of the central body or providing radial windows for this purpose, by the use of centrifugal force, and that the problem faced by Boeckel is quite different from the one solved by the present application, are not persuasive. The windows 26 of Boeckel inherently will channel out, in use, by centrifugal force, any condensate formed inside the central body. The fact that Applicant recognized an inherent property in Boeckel cannot be the basis for patentability. With regard to the argument that the problem faced by Boeckel is quite different from the one solved by the present application, this argument is not persuasive because Boeckel still reads on claims 1-4.

Amended claim 1 defines over Braun, but contains new matter and is inaccurate, as set forth later below.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-4 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant

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art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 1, lines 5-6 have been amended to recite that the number of through windows are formed only radially in the central body. This is new matter, because as seen in figures 2 and 4 and as disclosed in paragraph 20 of the specification, the through windows 25 are formed in the annular wall 13 of the central body 11, close to the peripheral edge of the base wall 12. Therefore, the through windows are formed axially in the annular wall 13, and not “only radially” as is claimed. Additionally, claim 1, line 3 recites that the central body is formed by a base wall 12 and an annular wall 13. The amendment to claim 1, lines 5-6 that the through windows are formed only radially in the central body adds new matter, because the central body is formed by the base wall 12 and the annular wall 13, which would include the through openings being formed on the base wall 12 and the annular wall 13. The original disclosure is limited to the windows being formed only on the annular wall 13.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4 are also rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1, lines 5-6 have been amended to recite that the number of through windows are formed only radially in the central body. This is inaccurate, because as seen in figures 2 and 4 and as disclosed in paragraph 20 of the specification, the through windows 25 are formed in the annular wall 13 of the central body 11, close to the peripheral edge of the base wall 12. Therefore, the through windows are formed axially in the annular wall 13,

and not “only radially” as is claimed. Additionally, claim 1, line 3 recites that the central body is formed by a base wall 12 and an annular wall 13. The amendment to claim 1, lines 5-6 that the through windows are formed only radially in the central body is inaccurate, because the central body is formed by the base wall 12 and the annular wall 13, which would include the through openings being formed on the base wall 12 and the annular wall 13. The original disclosure is limited to the windows being formed only on the annular wall 13. Claim 3, which recites that the through windows are formed in the annular wall, is contrary to the limitation in claim 1, lines 5-6 that the through windows are formed only radially in the central body, because the through windows 26 extend axially, as seen in figures 2 and 4 and as disclosed in paragraph 20 of the specification.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, as far as they are definite and understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Boeckel 3,303,995. Note the ventilation unit having an electric motor 24 with an output shaft 22 that is fitted with a fan 10 having a cup-shaped central body 12 and plural blades 16, with the central body being defined by a base wall 13 and an annular wall 14 from whose outer face the blades extend, with plural through windows 26 formed only radially in the central body, in a gap between adjacent blades, which inherently will

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channel out, in use, by centrifugal force, any condensate formed inside the central body. The through windows are formed close to the peripheral edge of the base wall. The through windows are formed in the annular wall and are equally spaced.

Claims 1-2, as far as they are definite and understood, are rejected under 35 U.S.C. 102(b) as being anticipated by United Kingdom Patent 1,414,891. Note the ventilation unit having an electric motor (column 1, line 12) with an output shaft 20 that is fitted with a fan having a cup-shaped central body 10 and plural blades 12, with the central body being defined by an unnumbered base wall (perpendicular to shaft 20) and an annular wall near 10 from whose outer face the blades extend, with plural through windows 13 formed only radially in the central body, in a gap between adjacent blades, which inherently will channel out, in use, by centrifugal force, any condensate formed inside the central body. The through windows are formed close to the peripheral edge of the base wall.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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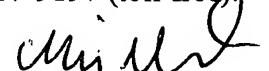
will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Verdier whose telephone number is (571) 272-4824. The examiner can normally be reached on Monday-Friday from 10:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward K. Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

C.V.  
October 20, 2005

  
Christopher Verdier  
Primary Examiner  
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